

United States Court of Appeals
For the Eighth Circuit

No. 15-3270

Edwin Arthur Ehlers, II

Petitioner - Appellant

v.

Denise Wilson, Warden

Respondent - Appellee

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: July 5, 2016

Filed: July 13, 2016

[Unpublished]

Before MURPHY, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Edwin Arthur Ehlers, II appeals the district court's¹ denial of his 28 U.S.C. § 2241 petition challenging his conviction by court-martial. Following de novo review, see Hill v. Morrison, 349 F.3d 1089, 1091 (8th Cir. 2003), we conclude that the district court properly denied the petition, as the military courts gave fair consideration to Ehlers's claims, see Burns v. Wilson, 346 U.S. 137, 144 (1953) (limited function of civilian courts is to determine whether military gave fair consideration to petitioner's claims); and Ehlers did not demonstrate cause and prejudice to excuse his failure to raise his remaining claims in the military courts, see Lips v. Commandant, U.S. Disciplinary Barracks, 997 F.2d 808, 812 (10th Cir. 1993) (federal courts will not review claims prisoner failed to raise in military court), or actual innocence, see McQuiggin v. Perkins, 133 S. Ct. 1924, 1928 (2013) (actual innocence serves as gateway to habeas review; petitioner must show that, in light of new evidence, no reasonable juror would have voted to find him guilty beyond reasonable doubt). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Joan N. Ericksen, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Franklin L. Noel, United States Magistrate Judge for the District of Minnesota.